IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWENTY FIRST DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION No. 23118 of 2004

Between:

Mohd. Jani E.77239, S/o. Shaik Mohammed,
aged about 51 years, Driver, APSRTC,

II-Depot, Nizamabad.

..... PETITIONER

AND

1 The A.P.,State Road Transport Corporation, Nizamabad,

rep. by its Regional Manager.
2 The Depot Manager, II-Depot, APSRTC, Nizamabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to Issue a writ or order or direction, especially one in the nature of writ of Mandamus. i) Declaring the impugned proceedings No. SP/785(7)/04-NZB.2 dt. 2.11.04 issued by the 2nd respondent as illegal arbitrary and set a side the same. ii) Consequently direct the respondents to continue the petitioner in service either as driver or any other suitable posts protecting this pay by paying the salary from 17.8.04 on wards and. iii) Pass any such other order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.

Counsel for the Petitioner: MR.K.VASUDEVA REDDY

Counsel for the Respondents: MR.V.T.M.PRASAD

The Court made the following:

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ORDER:

Declaring the impugned proceedings No.SP/785 (7)/04-NZB-2, dated 02.11.2004 issued by the 2nd respondent as illegal and arbitrary, and consequential direction to the respondents to continue the petitioner in service either as a driver or in any other suitable post, the writ petition is filed.

The learned counsel for the petitioner contended that in spite of giving directions by this Court for allotting appropriate light work to the petitioner as advised by the Doctor, the impugned proceedings have been passed directing the petitioner to submit a review petition before the appellate authority, and that the impugned order suffers from legal infirmities. He further contended that there are more than ten light vehicles being used by the respondent Corporation and that light work can be entrusted to the writ petitioner.

On the other hand, the learned standing counsel for the respondents contended that though the petitioner was directed to produce the medical certificate, he has not produced any certificate, and therefore he was directed to submit review petition within 12 weeks from the date of decision of the appellate authority so that his case will be considered.

The facts are not in dispute. By issuing an Office Order dated 17.08.2004, the petitioner was kept on leave till disposal of the case. That order has been set aside by this Court and directed the respondents to consider the case of the writ petitioner, keeping in view the opinion expressed by the Doctor at Nizam Institute of Medical Sciences and pass appropriate orders whether it is possible to provide light work to the petitioner. Adverting to the point at issue whether light work can be given to the petitioner, the impugned proceedings have been passed. The impugned proceedings do not indicate that there was no light work to be entrusted to the writ petitioner. On the other hand, it shows that the petitioner has to submit a review petition within 12 weeks from the date of decision of

the appellate authority to the medical Board consisting of Executive Director.

The impugned proceedings are not in consonance with the orders passed by this Court. Therefore, the respondents are directed to consider the case of the petitioner in accordance with regulations, for providing light work or alternatively provide a job under Rule 6-A(5) of the Regulations.

With the above directions, the Writ Petition is disposed of. It is needless to observe that the petitioner is entitled for salary in accordance with Regulations. No costs.

Note:

Issue CC in two days

B/o

Dsr

ASSISTANT REGISTRAR

To:

1. The Regional Manager,

The Andhra Pradesh State Road

Transport Corporation, Nizamabad

2. The Depot Manager, II-Depot,

APSRTC, Nizamabad

3. Two CD copies.